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AUTHOR Harbin, Gloria; And Others
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ABSTRACT

This paper provides an analysis of the current status of the states' eligibility policies for children with disabilities, ages 3 through 5. The study of all states and the District of Columbia indicated that states have made substantial progress toward developing eligibility policy since the passage of Public Law 99-457, the 1986 Amendments to the Education of the Handicapped Act. Content analysis of states' policy documents indicated that states use three types of approaches in determining eligibility: categorical (N=20); non-categorical (N=6); and a combination of categorical and non-categorical (N=25). Policy analysis revealed four main approaches to delineating eligibility criteria: (1) use of criteria for each disability category (N=20); (2) use of quantitative criteria only (N=15); (3) use of professional judgment only (N=4); and (4) use of a combination of professional judgment or quantitative criteria (N=12). When using quantitative criteria, states varied as to the type of quantitative criteria used and the level of criteria. Differences also existed in whether states required the child to be delayed in either one or more than one area of development. Analysis suggests that many states have developed policies that may either over-identify or under-identify preschool children eligible for special education and related services. Includes 39 references. (DB)

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Carolina Institute for Child and Family Policy

STATUS OF STATES' ELIGIBILITY POLICY FOR PRESCHOOL CHILDREN WITH DISABILITIES

GLORIA HARBIN
JOAN DANAHER
DIANE BAILER
SUSAN ELLER

The University of North Carolina at Chapel Hill

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GLORIA HARBIN
JOAN DANAHER
DIANE BAILER
SUSAN ELLER

Carolina Policy
Studies Program
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EXECUTIVE SUMMARY

The purpose of this paper is to provide the reader with an analysis of the current status of the states' eligibility policies for children with disabilities, age 3 through 5. The federal legislation which guides states' eligibility policy sets up a paradox for states. States must ensure that the eligibility criteria developed by states must equate to the disabilities covered in Part B of the Individuals with Disabilities Eduction Act (IDEA). However, P.L. 99-457 amended the reporting requirements for preschool children, by removing the requirement to report children by disability category. States are presented with a variety of other challenges in the development of eligibility policy. Problems with the adequacy of assessment instruments, as well as the issues of categorical and non-categorical classification must also be addressed in the development of states' eligibility policies.

Results of this study indicate that states' have made a great deal of progress toward developing eligibility policy since the passage of P.L. 99-457 (Meisles, Harbin, Modigliani, & Olson, 1988). All states including the District of Columbia sent eligibility policies to the Carolina Policy Studies Program for analysis. A content analysis of this policy document indicated that states are using three types of approaches in determining eligibility: categorical (N=20); non-categorical (N=6); combination of categorical and non-categorical (N=25).

Once a state has determined which approach will be used to determine eligibility, criteria must then be developed. Policy analysis revealed four main approaches to delineating eligibility criteria: (1) use of criteria for each disability category (N=20); (2) use of quantitative criteria only (N=15); (3) use of professional judgement only (N=4); (4) use of a combination of professional judgement or quantitative criteria (N=12).

When using quantitative criteria, states varied as to the type of quantitative criteria used (e.g. percentage or standard deviation). The level of criteria (e.g. 1.5 standard deviations or 2.0 standard deviations) also varied across states.. In addition, the eligible policy of states differed with respect to whether a child needs to be delayed in one area or two areas of development.

The challenge for state policy-makers is to develop eligibility and diagnostic assessment policies that lead to the accurate identification of preschool children needing services. While it appears from the analysis that some states have tried to address this critical eligibility policy issue, many states have developed policies that may either over-identify or under-identify preschool children as eligible for special eduction and related services. Reasons for this conclusion from the data analysis are presented.

Eligibility policy for 3 through 5-year-old children with disabilities is continuing to evolve. While all states have either a proposed or approved policy, some states are currently proposing additional revisions to the existing policies. It will be important to follow the continuing development of eligibility policy for preschool children.

ACKNOWLEDGEMENTS

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BACKGROUND

It is the purpose of this paper to provide the reader with an analysis of the current status of the states' eligibility policies for children with disabilities, aged 3 through 5. Legislation providing the incentives for such policy is reviewed and includes P.L. 94-142 (Education of All Handicapped Children Act) and P.L. 99-457 (Education of All Handicapped Children Act, Amendments of 1986), which are now encompassed under a single law known as the Individuals With Disabilities Education Act (1990) or P.L. 101-476. A discussion of barriers for identification of these children is also presented.

Public Law 94-142, which established Part B of the Education of All Handicapped Children Act,* was passed in 1975 creating an entitlement to services for children with disabilities beginning at school age. The legislation and subsequent amendments enumerate ten disability categories (e.g., mental retardation, learning disability, orthopedic impairments) that entitle such children to services if they are in need of special education and related services. While the provisions in this legislation encouraged states to begin serving children with disabilities at age three and even earlier, federal law could only require states to establish an entitlement for children of school age. Complicating this issue is the fact that states vary in the age of compulsory school attendance.

However, as a result of the incentives provided under Part B of IDEA, by 1986, 21 states had passed state legislation to entitle all children with disabilities ages 3 through 5 to special education and related services. Other states (17) provided services to 3 through five 5-year-old children with some

* As a result of P.L. 101-476, this legislation is now entitled the Individuals with Disabilities Act (IDEA). Thus, what has been referred to as Part B of P.L. 94-142 in the past is now Part B of IDEA and will be referred to as such in the remainder of this paper.

types of disabilities but not for other types of disabilities, or to children with severe impairments but not to those children with mild impairments regardless of the type of disabling conditions, or to 4 or 5-year-olds, but not 3-year-old children (Meisels, Harbin, Modigliani, & Olson, 1988; National Center for Clinical Infant Programs, 1984; U.S.D.O.E., 1987 (a)) . There were still other states (12) that had no state entitlement whatsoever for preschool children with disabilities.

Thus, P.L. 99-457, the Education of All Handicapped Children Act Amendments of 1986, amended Section 619 of Part B of P.L. 94-142* to provide further incentives for states to provide a free, appropriate, public education for all eligible children with disabilities between the ages of 3 and 6 years (Garwood, 1988). In addition, any state that does not achieve a full entitlement for services to this population by 1991-1992 will face penalties through the loss of federal funds which support services and certain discretionary programs exclusive to 3 through 5-year-olds (Trohanis, 1989).

Each State Education Agency (SEA) is required to have an approved State Plan for the provision of special education and related services meeting all requirements of Part B of IDEA, and it must be amended to include policies and procedures for 3 through 5-year-old preschoolers with disabilities. These requirements include the reporting of the numbers of children served by age and disability category, with the exception of 3 through 5-year-olds. P.L. 99-457 amended the reporting requirements for children in this age group, by removing the requirement to report children served by disability category (20 USC, 1418(b) (1)). States report preschool children in a single category by age only.

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* Section 619 of Part B of P.L, 94-142 and the Amendments to this section enacted under P.L. 99-457 are now included in IDEA. This section of the law will be referred to as Section 619 of Part B of IDEA in the remainder of this paper.

Subsequent policy clarification from the Office of Special Education Programs (U.S.D.O.E., 1987(b)) explained that while the children served did not need to be reported by disability categories, they must however meet the eligibility requirements of Part B of IDEA. This change in reporting requirements did not negate the states' obligations to serve all the children with all of the types of disabilities protected by Part B of IDEA . Nor was the change in reporting requirements intended to expand the population of children protected by the IDEA. It does, however, permit the states to identify and report children with disabilities in a more general manner.

This then sets up a paradox for states. They may use a more general approach in reporting the number of children served. However, whatever term(s) a state may use to identify and/or report the number of 3 through 5-year-old children eligible for special education and related services, the definition(s) of such term(s) must equate to the disabilities covered in Part B of the IDEA and must not include children who are not disabled.

The policy issue facing states is to develop eligibility criteria that comply with the requirements of Part B of IDEA, while at the same time appropriately identify all preschool children with disabilities. By not requiring the states to report the children by category, the law provides the states an alternative to labeling young children. In deciding whether to identify children using the disability categories of Part B of IDEA (categorically) or non-categorically, state policy-makers have little research evidence to guide them. The literature consists largely of opinions based on parental preferences and professional clinical experience.

ISSUES RELATED TO THE DEVELOPMENT OF ELIGIBILITY POLICY

Several concerns have been expressed about the application of the disability categories enumerated in the law to very young children. They include concerns about:

(a) stigmatizing children so early in life with the implied permanence of a disabling condition (Hobbs, 1978),

(b) difficulty in accurately assigning a disability category when developmental domains are closely interrelated in early childhood (Shonkoff, 1983; Smith & Schakel, 1986),

(c) and the inappropriateness of some categories for describing disability in preschool age children (Bailey 1989; Meisels & Wasik, 1990; Ramey, Breitmayer and Goldman, 1984; Shonkoff, 1983).

The effects of labeling have long been a point of debate. Parents as well as professionals have advocated for a non-categorical approach with this younger population to avoid the labeling of children so early in life. Those advocating for a non-categorical approach have argued that labels have a stigmatizing effect on children and may have a negative impact on the perceptions of persons working with the children (Algozzine, Mercer, & Countermine, 1977; Foster, Schmidt, & Sebatino, 1976; Foster, & Ysseldyke, 1976; Foster, Ysseldyke, & Reese, 1975; Palmer, 1983). Use of a term such as developmentally delayed may not have the stigmatizing effect of some other labels such as mentally handicapped. Furthermore, the term developmentally delayed may not necessarily imply the permanence that other categorical labels imply (McCarthy, Lund, & Bos, 1983). The possibility exists that the more general classification of developmentally delayed will eventually assume the

characteristics of a stigmatizing label itself. However, many believe that it will still be a better alternative to the more specific labels of emotionally disturbed, mentally retarded, etc.

Problems of adequate assessment with this age group raise additional concerns regarding the potential for mislabeling a child (Gutkin & Tieger, 1979; Lehr, Ysseldyke & Thurlow 1987; Lidz 1983; Mercer, Algozzine, Trifiletti, 1979; Strain, 1984; Ulrey & Schnell, 1982). The interrelatedness of developmental domains (i.e. cognition and language) in early childhood makes precision in diagnosis a challenging task (Meisels & Wasik, 1990; Ramey, Breitmayer & Goldman, 1984). A 3-year-old child's lag in expressive and receptive communication abilities might be associated with mental retardation, hearing impairment, autism, emotional disturbance, learning disability, or speech impairment, thus illustrating the problem of determining the most accurate and appropriate categorical classification.

The learning disability category in particular seems to raise concern among many professionals concerning its appropriateness in describing preschool age children (National Joint Committee on Learning Disabilities, 1987) . Because the term as defined in the statute refers to disabilities in reading, writing, spelling and performing mathematical calculations, it has been suggested that it is inappropriate to be used with young children (Brown, 1983; Meisels & Wasik, 1990). The literature is not encouraging on the current ability to pinpoint behavioral precurors of these disabilities, test for them, and predict which children will have these academically oriented learning disabilities at school age (Meisels & Wasik, 1990).

The non-categorical approach may have the potential to address some of the concerns associated with the use of a categorical label. However, concerns

regarding the use of a non-categorical approach have also been raised. One of these is the fear of "opening the flood gates." Some administrators and policy-makers feel that use of specific categories will better control the numbers of children served, as well as assure that scarce resources are available to those truly in need (A. Stewart, personal communication, April, 1990). Others have suggested that a non-categorical eligibility model does not necessarily broaden the interpretation on who is disabled (Kochanek, 1984).

Whether states use a categorical or non-categorical approach another task to be addressed by policy-makers is the development of specific criteria to determine eligibility. Whether states use a categorical or non-categorical approach the task to be addressed by policy-makers is the development of specific criteria to determine eligibility. This task is made difficult by deficiencies in instruments used to assess developmental status in very young children, lack of personnel specifically trained to assess young children and interpret assessment results, and lack of broad assessment procedures (Bailey, 1989).

Among problems with current assessment instruments are limitations related to the number of, and contents of, the instruments, the exclusion of children on the basis of disability or ethnicity in normative samples, and inappropriateness of many instruments for children with limited response modes, such as children with severe physical impairments (McCune, Kalmanson, Fleck, Glazewski, Sallari, 1990; Meisels & Provence, 1989). A problem not inherent in the instruments themselves, but perhaps resulting from the limited range of instruments available, is the misuse of tests, most frequently the use and interpretation of criterion-referenced tests in a norm-referenced manner (Harbin, in press; Meisels, 1991; Wachs & Sheehan, 1988).

Many diagnostic personnel performing assessments in education settings have not been trained in early childhood development or assessment of young children with disabilities (Harbin, in press). Knowledge of various aspects of the development of young children is necessary to understand and correctly interpret assessment results (Harbin, in press). Assessment devices do not measure the qualitative aspects of the child's behavior nor reflect the relationship between neurological development and other areas of development such as cognitive and motor (Darby, 1979; O'Donnell, 1989; Swanson, 1979).

Assessment procedures often focus exclusively on the child's test performance rather than observing the child's behavior in natural environments (Meisels, 1991). The environment in which a child is assessed (i.e. home, neonatal intensive care unit, day care center, etc.) can have a tremendous impact on aspects of the child's development and performance (Meisels & Provence, 1989). The environment can either facilitate or hinder the preschooler's ability to perform tasks that are required as part of the assessment process (McCarthy, et al, 1983; Harbin, in press). Eligibility criteria should recognize the limitations of test performance and include the use of a variety of data sources, including information from the child's family (Meisels & Provence, 1989).

These are issues states must bear in mind as they undertake the development of eligibility policy. The focus of this report will be to explore individual state responses to these concerns by examining the current status of the states' eligibility policies for preschool children with disabilities. In 1988, Meisels, Harbin, Modigliani, and Olson completed a survey regarding the early childhood policies of all 50 states and the District of Columbia. At that time, they

reported 8 states had entitlements that began at age 6. Sixteen states had entitlements beginning at age 3, in 4 states entitlement began at age 4, and in 17 states age 5 was the age at which entitlement began. These results depict the diversity that existed among the states regarding policy for young children with disabilities prior to the passage of P.L. 99-457.

This diversity makes the present study all the more important. The states did not all begin at the same level in policy development for this population, and as a result, are at different levels in regard to their policy development at the present time. This study will examine the progress the states have made and the trends in the policies being developed.

PURPOSE OF STUDY

The purpose of this study was to examine the policy established by each of the 50 states and the District of Columbia in order to determine the eligibility of children ages three through five for special education and related services. In order to accomplish this purpose, several policy issues were examined and compared across states. These issues include:

(a) the variety of approaches used by each state and the similarities and differences in the approaches;

(b) the extent to which states were utilizing the opportunity provided by new federal legislation for using a non-categorical approach;

(c) the nature of the specific criteria used to determine eligibility; and

(d) the nature of eligibility criteria developed by those states who did not previously have an entitlement for 3 through 5-year-olds and are developing official policy to comply with P.L. 99-457.

Issues and potential consequences raised by the various approaches reflected in this policy analysis will be discussed.

A subsequent study will compare the eligibility policy for the birth through three population (Part H of IDEA), with the eligibility policy for the 3 through 5 age group in each state. It will examine the extent of continuity and/or discontinuity in eligibility for services for the two age groups. Results of this second analysis will be discussed in a future report.

METHOD

The initial component of the study consisted of a survey which was designed to solicit current status of state policy with regard to determining eligibility for the 3 through 5-year-old children with disabilities. The second component consisted of a content analysis of each state's policy with regard to the nature of the criteria used to determine eligibility for children with disabilities ages 3 through 5.

Survey

A survey was developed to solicit information from the lead agency for Section 619 in each state regarding the status of each state's eligibility policy. A packet containing a letter, which explained the nature of the study, and a copy of the state's most current policy from the files of the Carolina Policy Studies Program (CPSP) and the National Early Childhood Technical Assistance System (NEC*TAS) accompanied the survey that was mailed to each state. The survey requested verification that: (1) the file copy was correct/current, or (2) the file copy was correct/current, however, a new policy had been drafted,

but not yet approved or, (3) the file copy was out of date, and a new policy had been approved.

The initial request for information went out to Section 619 Coordinators in December. In January, 12 states that had not responded were contacted by telephone. All agreed to participate and requested a second copy of their state's packet. The second mailing was completed in January, 1990. The final response rate was 100%. All 50 states and the District of Columbia have responded and the results are reported here.

Policy Analysis

The second component of this study consisted of developing a matrix to conduct the analysis of the eligibility policy received from each state. The eligibility policies we received from the states were considered the most current policies. Some of these eligibility policies were developed prior to the passage of P.L. 99-457, while others were developed after the passage of this important law. The content analysis of the 51 policies addressed the following questions: (1) was the classification approach categorical, non-categorical, or some combination; (2) what specific criteria were used to identify the preschool children in the non-categorical classification; (3) what states, if any, were using a deferred diagnosis or diagnostic placement; (4) what ages were included for eligibility; (5) were established conditions such as those included in states' Part H definition being used with the 3 through 5 age group; and (6) were criteria set at the state or local level?

Reliability of the investigators' ratings with regard to the six questions addressed was determined in two ways. First, all definitions were analyzed independently by two of the research project investigators. When there was

disagreement in the analysis, the two analysts came to consensus through discussion. In some instances, the wording in a particular state eligibility policy can be vague enough to result in more than one interpretation of meaning. In such instances it was decided that the accuracy of analysis would be increased through discussion. In other words, "two heads would be better than one" in attempting to most accurately analyze these illusive policies. In a few cases, study investigators telephoned states for clarification of some aspect of the eligibility policy. Second, a sample of the definitions (40%) was analyzed by a third study investigator. There was 100% agreement among the study investigators on all eligibility criteria in this reliability sample.

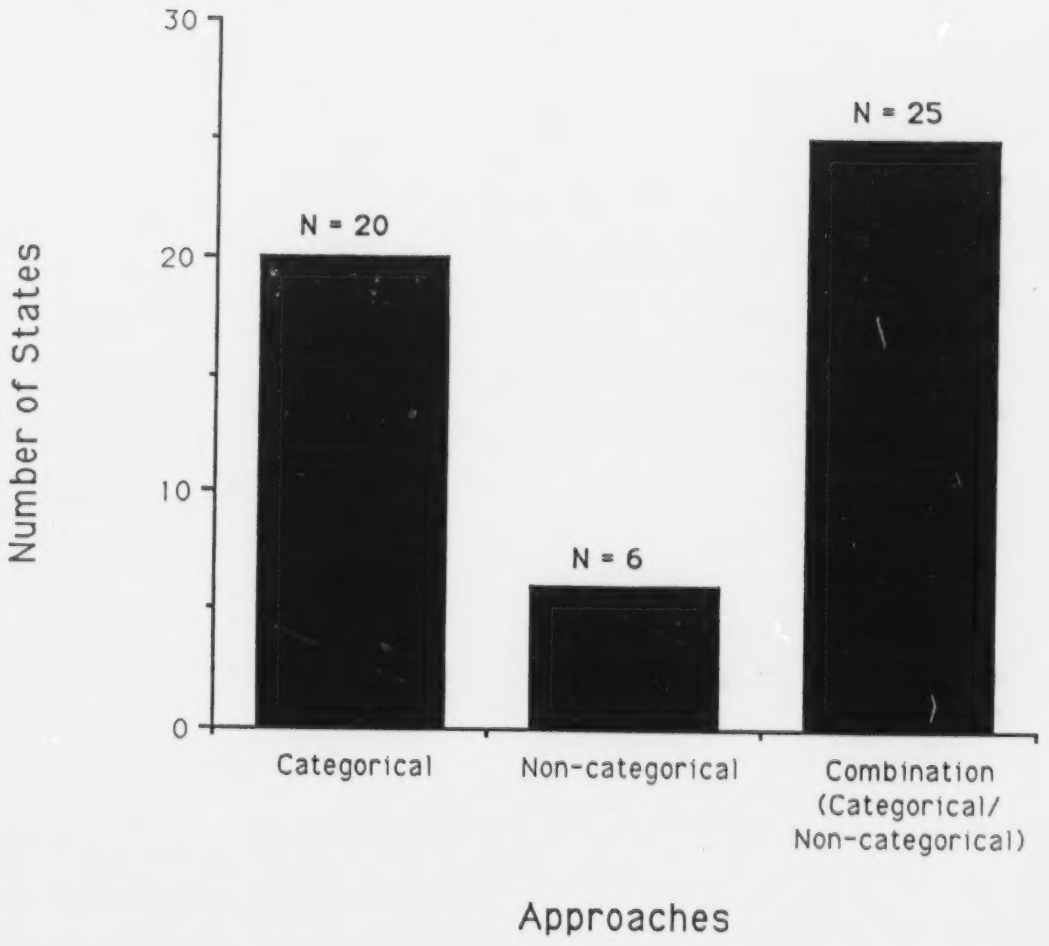
RESULTS

Approaches to Determining Eligibility

The paradox within the law which requires states to ensure eligibility according to the disabling conditions listed in Part B of IDEA, but does not require states to report children using these disability categories, has resulted in a diversity of approaches among the states. An analysis of the states' current policies for determining eligibility for preschool special education and related services revealed the utilization of three main types of approaches among the states. These include a categorical approach, a non-categorical approach, and a combination of categorical and non-categorical approaches. Figure 1 displays the number of states using each approach. The states did include variations within these three main approaches and these also will be described.

Categorical Approaches. As described earlier in this paper, states are not required by federal legislation to report 3 through 5-year-old children by

FIGURE 1: TYPES OF ELIGIBILITY APPROACHES USED BY STATES



disability category; however, states are required to assure that all eligible children meet the requirements for eligibility within Part B of IDEA. There are 10 states where the categorical eligibility for preschoolers is identical to the criteria used for school aged children, and 10 states have elected to use a categorical approach similar to the disability categories included in Part B of IDEA. Six states currently employ modified eligibility criteria for preschoolers for some of the traditional disabilities categories. Those disability categories most frequently modified for the 3 through 5-year-olds include mental retardation, specific learning disabilities, and speech/language disorders.

For example, some states have identified different criteria for articulation problems in children below age 5, than the criteria used to determine eligibility for school-aged children. This distinction is made because the range of normal development in this area varies more in younger children than in older children. In developing different criteria for delay for the 3 through 5 age group than those used with school-age children, states are able to address age-related developmental differences. Current eligibility policy in four states excludes the use of certain categories (e.g,. Specific Learning Disabilities, Severely Emotionally Disabled, Speech and Language Disabled, etc.) for preschoolers, or limits the eligible population to children with more severe disabilities.

Non-categorical Approaches. The second approach to classification was an exclusively non-categorical one. This classification required evidence of developmental delay in one or more of the following areas: (1) cognitive development, (2) physical development which includes fine and gross motor, (3) speech/language development, (4) psychosocial or social-emotional development and/or (5) self-help or adaptive behavior. Terms used to describe

eligible children in this classification approach are often referred to as "developmentally delayed" or simply "preschool handicapped." Analysis of state eligibility policy identified six states utilizing this non-categorical approach exclusively.

Combination Approaches. Twenty-five states established eligibility policy which combined all or some of Part B of IDEA disability categories with an additional non-categorical preschool option as described above. Analysis of differences among the policies of these states reflected **three** primary subgroups. The first subgroup consisted of 10 states that allowed identification of preschool children using either one of the Part B of IDEA categories or the non-categorical preschool category. A second subgroup of 5 states included restrictions on when and how the non-categorical eligibility option could be used. In some instances this non-categorical option could be used, only, if one of the other categories could not be used. In other instances, it could only be used as an alternative to selected Part B categories.

The third subgroup consisted of 10 states which eliminated the use of some of the Part B of IDEA disability categories for the three through five population, and included in addition, a "preschool handicapped" or "developmentally delayed" alternative for eligibility. Specific Learning Disabilities, Seriously Emotionally Disturbed, and Mentally Handicapped were the Part B of IDEA disability categories most frequently eliminated. For example, in one state's guidelines it specifies that as a result of the difficulties in identifying or distinguishing among learning disabilities, mild mental retardation, and speech and language impairments in 3 and 4-year-olds there is one category of "learning impaired" for this age group. Four of these 10 states in addition to eliminating the use of some categories also elected to modify some of the other

Part B of IDEA categories for the 3 through 5 population, in addition to providing a non-categorical preschool option. An example of this type of state policy is one in which criteria are identified specific to the 3 to 6-year-old with a speech/language disability, while the "developmentally delayed" category might be applied to children with cognitive or emotional deficits, or those disabilities which might later be diagnosed as specific learning disabilities.

Criteria Used in Non-Categorical or Combination Options

Once a state has decided which approach will be used to determine eligibility, there must be some method of determining just which children fit the definition and are eligible for services. The question facing states is the extent of delay or disability a child must display in order to receive services and how that delay will be determined. These are largely measurement concerns. As mentioned earlier, some states using the Part B of IDEA categories have elected to use the same criteria for preschoolers that they use for school aged children. A few others have developed some modifications of the school age criteria. Thus, in those states using a categorical approach, eligibility is determined by using the criteria contained in each disability category. However, states using either a non-categorical approach only, or the combination approach which has a non-categorical option, have developed other types of eligibility criteria.

An analysis was conducted of the definitions from the 31 states that contained some type of a non-categorical preschool option. (Six states use this classification exclusively, while 25 states used this in combination with some categorical definitions). It appears that there are **three** main approaches to delineating the eligibility criteria in states using some type of non-categorical

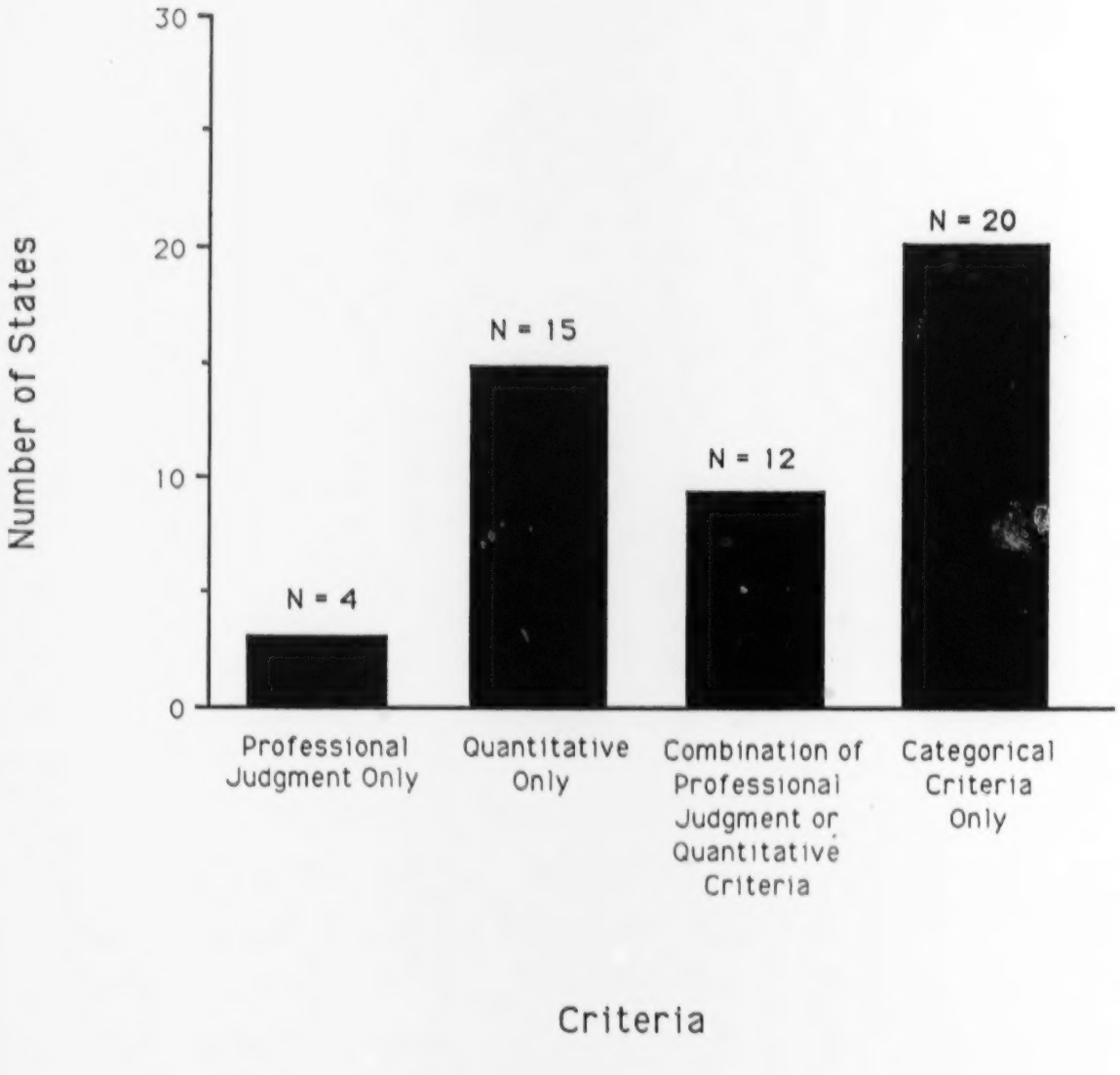
eligibility option: (1) use of quantitative criteria only; (2) use of professional judgment only; (3) use of a combination of quantitative criteria and professional judgment. Figure 2 depicts the number of states using each of these types of criteria.

Quantitative Criteria. Fifteen states rely exclusively on quantitative criteria such as standard deviations or percentage of delay to establish eligibility. Eight of these states specify cut off scores in terms of standard deviations, while 4 use percentages, and only 2 states allow for either type of score. One state specifies use of months delayed in determining eligibility.

Professional Judgment. Another method for determining eligibility for services to preschool children with disabilities, required a professional diagnosis or judgment that the child needed special education and related services. In this instance, the policy does not list any quantitative criteria such as percent delay, but utilizes the professional diagnosis or clinical judgment of qualified professionals to determine whether the child's behavior is significantly delayed or deviant. Use of this approach is based upon the assumption that either the tests available are inadequate to determine eligibility, or that there are no tests to determine the existence of a particular type of disabling condition for a preschool child (e.g., emotional disturbance). This approach also assumes that the professionals conducting the assessment and making the eligibility decision are knowledgeable and qualified. Four states are using professional judgment or diagnosis exclusively, to determine eligibility for services. It is interesting to note that all 4 of these states are also using the non-categorical approach described previously.

Combination. A third approach taken by 12 of the states is the use of a combination of quantitative criteria (i.e., standard deviation and percent delay)

FIGURE 2: TYPES OF ELIGIBILITY CRITERIA USED BY STATES



and professional judgment. In these states, specific standardized test-based criteria are recommended, but the multidisciplinary team is allowed to use professional judgment if the tests are inconclusive or not available.

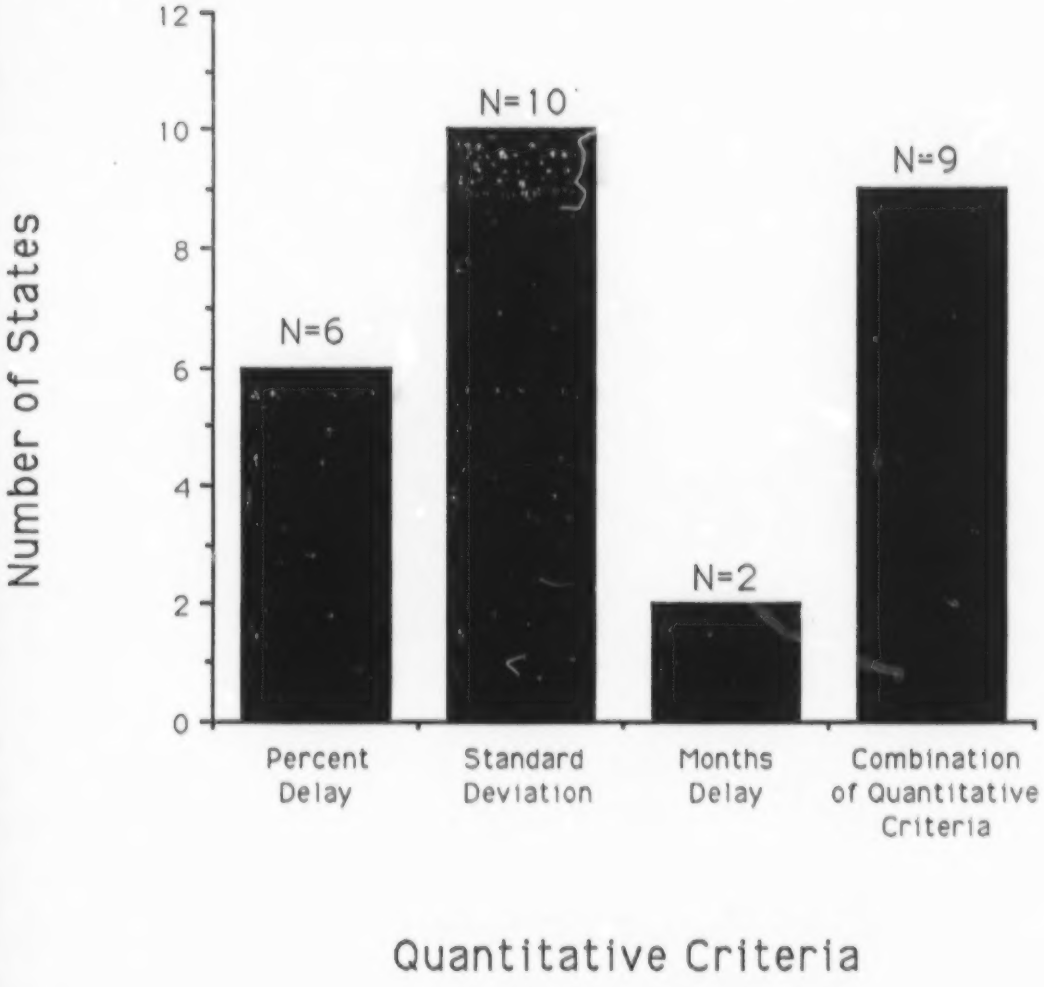
Levels of Delay Required To Determine Eligibility

There were 27 states that included different types of quantifiable criteria that describe the child's delay in terms of deviation from normal development. These states include states utilizing quantitative criteria only, as well as states including quantitative criteria as part of the combination approach. Six states used only criteria specifying certain percentages of delay in one or more developmental areas. Ten states have used standard deviations exclusively to determine the degree of delay necessary for identification. Two states specify the degree of delay necessary in months. Nine states allowed the use of a combination of quantitative criteria. For example, either standard deviation or percent delay can be used in determining eligibility. See Figure 3.

For those states utilizing percentages to describe the extent of delay needed (either the use of percentage only or the use of percentage in combination with some other type of criterion), the range of percentages utilized by states requiring a delay in one or more developmental areas was from 20% to 50%. Twenty five percent to describe delay in one area was used most frequently. The range of percentages used by states requiring a delay in two or more developmental areas was from 15% to 25%, with 25% used most frequently.

With regard to the use of standard deviations (either in combination with some other type of criterion or by itself), the range of standard deviations used by states requiring a delay in one or more areas of development was from 1.5 to

FIGURE 3: TYPES OF QUANTITATIVE CRITERIA USED BY STATES IN ELIGIBILITY POLICY



Note: States using the categorized approach are not included in this table.

2.5. A standard deviation of 2.0 to describe delay in one area was used most frequently. The range of standard deviations utilized by states requiring a delay in two or more developmental areas was from 1.0 to 2.0, with 1.5 used most frequently. Table 1 presents the range and most frequently used level of criteria used by states.

Additional Provisions Appearing in States' Policy

Several other provisions in the states' policies appear to be designed to address some of the difficulties in determining eligibility for preschool children.

Inclusion of Conditions. One of the issues of concern to many advocates and service providers is that the eligible population for Part H of IDEA and Part B of IDEA are defined somewhat differently. Children with physical or mental conditions with a high probability of resulting in developmental delay, often referred to as established conditions, are clearly eligible under the requirements of Part H of IDEA. Of interest then, is if, and how, these physical and mental conditions can be addressed in the eligibility policy for 3 through 5-year-old children with disabilities. Our analysis of states' eligibility policies revealed that 10 states had some provisions for including preschool children with established conditions. States used four different ways to include established conditions in their eligibility policy.

One approach used by states was to include children with established conditions within the preschool non-categorical option, sometimes called developmentally delayed. Other states have included physical or mental conditions known to be associated with a high probability of resulting in developmental delays, in the Other Health Impaired (OHI) category, which is one of the Part B of IDEA categories. Still other states have included such

TABLE 1: RANGES OF CRITERIA USED BY STATES TO DETERMINE DELAY

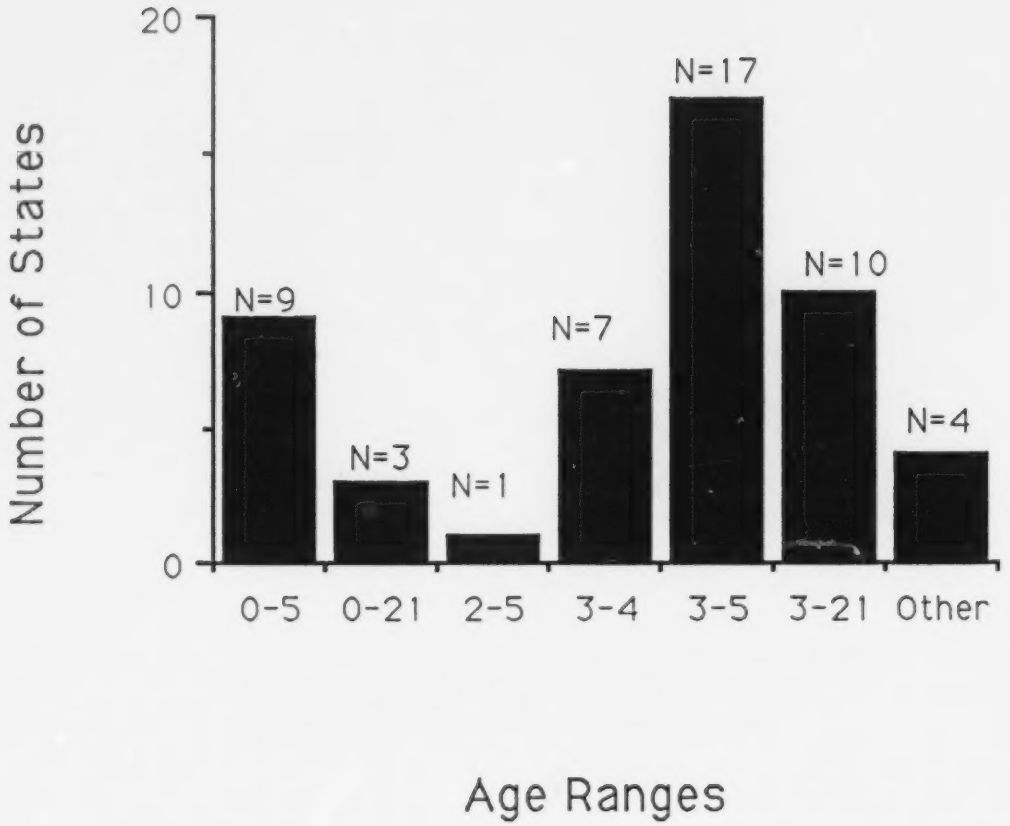
Areas of Development	Type of Criteria	Minimum	Maximum	Most Frequently Used
1 area	Percent	20%	50%	25%
	Standard Deviation	1.5	2.5	2.0
2 or more areas	Percent	15%	25%	25%
	Standard Deviation	1	2.0	1.5

conditions within each of the Part B of IDEA disability conditions categories. For example, one state included Down Syndrome in the category entitled Mental Retardation. Finally, one state created a new category in addition to the categories used in Part B of IDEA. This new category was titled Established Risk and contains physical and mental conditions considered to be associated with the need for special education and related services.

Provisions by these 10 states may help to facilitate the continuation in eligibility for some children with established conditions when they turn three years of age.

Age. Nine states developed eligibility policies that are consistent from birth through five, with the intent of developing a "seamless" system of services and eligibility. Four states developed eligibility policy which reflects idiosyncratic age differentials, often by disability. Due to the idiosyncratic nature of these policies they have been included in the group entitled "Other" in Figure 4. For example, one state's policy provides an entitlement to services for hearing impaired, deaf-blind and autistic children beginning at birth. However, trainable and severely mentally handicapped children and children with orthopedic handicaps are entitled to services at age three. Children with learning disabilities, educable mental handicaps and physical impairments are entitled to services beginning at age four. The remaining states developed a variety of inclusive age ranges for determining eligibility. It should be noted that the eligibility criteria that were analyzed came from states with entitlements, as well as states that had not yet obtained an entitlement. It will be interesting to examine the age of eligibility once again when all states have enacted an entitlement to determine whether states are able to use the same criteria for birth through five, despite different lead agencies and different federal

FIGURE 4: AGE RANGES FOR ELIGIBILITY CRITERIA USED BY STATES



requirements for the two age groups. The age ranges of eligibility criteria most frequently chosen by the states appears in Figure 4.

Deferred Diagnosis. Another provision noted in some state eligibility policy recognizes the difficulty in making an accurate diagnosis in young children. Two states reported offering a deferred diagnosis option or temporary placement for preschool children. This allows for serving the preschool age child for a limited time period, until accurate assessment and diagnosis can be made. One state allowed a 30 day placement and the other state specified no more than 20 days for this temporary placement. After this period of time, the child then has to meet the eligibility criteria for one of the Part B of IDEA categories or a preschool non-categorical eligibility category.

Local Criteria. Some state eligibility policies provided for local autonomy and flexibility. Three states allow the local education agency to establish criteria for identifying the children with disabilities in this population.

Trends in Approaches Selected by States Enacting New Legislation

There are 22 states that have enacted legislation entitling 3 through 5-year-old children with disabilities to special education and related services since the passage of P.L. 99-457 (National Early Childhood*Technical Assistance System, 1990). These states had approximately three to four years to develop and pass state legislation that was in compliance with federal legislation. These 22 states recently were faced with the challenging task of developing sound eligibility policy, that is also politically acceptable to the state agency decision makers and legislators who have to approve this critical policy. No doubt the issue of establishing an entitlement at the time of fiscal crisis in many states has caused many policy-makers to want to carefully and narrowly define

the population to be served, so as not to "open the flood gates." While on the other hand, it is likely that many professionals have lobbied for eligibility policies that are flexible and psychometrically sound. As a result, there was interest in examining the eligibility policies of this unique group of states to determine if there were trends in the type of approach selected for determining eligibility.

Seven states that have enacted legislation since the passage of P.L. 99-457 have implemented a categorical approach for classifying 3 through 5-year-old children with disabilities. Two states have approved the use of a non-categorical approach. The majority of the states enacting legislation since the passage of P.L. 99-457 (13 states) allow the use of a non-categorical preschool option in addition to some or all of the Part B of IDEA categories.

SUMMARY AND DISCUSSION

Results of this study indicated that states have made a great deal of progress toward developing eligibility policy since the passage of P. L. 99-457 (Meisels, Harbin, Modigliani & Olson, 1988). However, the results also indicated several concerns regarding the nature of these extremely important policies. The challenge for state policy-makers is to develop eligibility and diagnostic assessment policies that lead to the accurate identification of preschool children needing services. These policies need to be constructed so as not to identify children as disabled who are not (over-identification), nor fail to identify children who are disabled and in need of special education and related services (under-identification). To err in either direction has negative consequences and attempts should be made to avoid this. Policy-makers are

often concerned primarily with the problem of over-identification of children. Unfortunately, their concerns may be more financially driven, and aimed at cost containment instead of being driven by the concerns for inappropriate labeling, or for the provision of inappropriate services resulting from an incorrect eligibility decision. While it appears from our analysis of state policies that some states have tried to address this critical eligibility policy issue, many states have developed policies that may not be able to avoid the pitfalls of over-identification, or under-identification, of preschool children as eligible for special education and related services.

The analysis of states' current preschool special education eligibility policies indicated that a majority of the states (31) use some type of non-categorical preschool eligibility policy option, either exclusively, or as an option in addition to the use of the disability categories within Part B of IDEA. The use of a non-categorical definition of preschool eligibility allows the states to avoid using the traditional categorical labels with preschoolers.

Concern about the appropriateness of some disability categories for very young children has prompted some states to eliminate these categories for 3 through 5-year-olds. In most cases the preschool non-categorical option is expected to describe the same children who might otherwise be identified, for example, as Specific Learning Disabled or Severely Emotionally Disturbed. However, a review of the criteria used to determine eligibility for the non-categorical preschool option revealed that this may not always be the case. While the states have employed different methods for determining eligibility criteria, results indicate that approximately 30% of the states rely exclusively on the use of tests, for the determination of eligibility.

As mentioned earlier, there is concern about the availability and adequacy of test instruments for this age group to be able to adequately identify all children with disabilities. Furthermore, the reliance on a single type of quantitative criteria such as percent delay only limits the alternative even further as one must choose "the instrument" that yields the type of score required by the eligibility policy. Such exclusive reliance on test instruments is particularly problematic for preschool children. With the difficulties in testing this age group, the lack of adequate tests, and the fluctuations in the performance of preschoolers, children may "move in and out" of eligibility based on the time of testing and the instrument used.

While it would appear that the intent of the states using a non-categorical option was to allow accuracy in diagnosis, the use of tests only by many states, may fail to identify some young children with certain types of disabilities. Obviously, the potential is highest for children with mild delays not detected with some assessment instruments. These are the children that are likely to be identified in their early school years. If they could be identified prior to school age and provided early intervention, there is evidence to suggest that they would need less special education and related services later (Smith & Schakel, 1986).

Another method for determining eligibility required a professional diagnosis or judgment that the child needed special education and related services. The judgment would be made that the child would not be able to make satisfactory educational progress when he/she attains school age without special services. While this method is less test driven, it allows for a wide range of possible interpretations of assessment results and may lead to wide disparities in eligibility across school districts, unless professionals are adequately trained

and given some directions in policies. Professional judgment is only as good as the skills and qualifications of the person behind that judgment, and the current situation with regard to appropriately trained personnel would raise some legitimate doubts about the background of many of the individuals who would be making that professional judgment.

While the traditional categorical labels certainly have their stigmatizing effects, it may be possible that the states that use professional judgment in the identification of some of those disability categories may more accurately identify children than those states that use a non-categorical approach but use tests only. Furthermore, 12 of the states using some non-categorical approach are using quantitative criteria, and have also included a provision for the use of professional judgment. This combination of methods for determining eligibility appears most likely to yield an accurate eligibility determination for preschool children than either method alone, especially if there is more than one type of quantitative criteria available for determining eligibility. This approach to the development of eligibility policy indicates states' interest in trying to incorporate what is known as best practice in the professional literature.

As policy-makers grapple with the issues that make eligibility policy and decisions difficult, other approaches to classification are being explored. An alternative approach would be to document within-child variability across key domains in functional terms. Such an approach has been proposed by Simeonsson and Bailey (1988) in the form of the ABILITIES Index. This Index yields a profile of a child's functional status for domains including audition, behavior, intelligence, communication, health, and vision. This index is currently undergoing extensive research and may have utility in a non-

categorical approach to documenting eligibility (Porter, Bailey, & Simeonsson, 1990).

While there is concern about the lack of continuity between the eligibility for infants and toddlers under Part H of IDEA and preschool children with disabilities under Part B of IDEA, it appears that several states have begun to address this potential problem in a variety of ways. Some states have defined their eligibility criteria to include both age groups (birth through two and three through five) into a single age range of birth through five. Some states have also included Established Conditions within the preschool non-categorical option or have included some of these conditions under the disabilities categories and especially within the Other Health Impaired category.

Eligibility policy for 3 through 5-year-old children with disabilities is continuing to evolve. While all states have some eligibility policy proposed or approved, some states are currently proposing revisions to their existing policy. It will be important to follow the continuing development of eligibility policy for preschool children.

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Frank Porter Graham
Child Development Center
CB No. 8040, 300 NCNB Plaza
Chapel Hill, NC 27599

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